

Tuesday, January 25, 2005

The Board met at its offices at 450 N Street, Sacramento, at 9:31 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

W. Roche and Glenda L. Garcia, 252189

1992, \$357,009.00 Assessment

For Appellant:

Charles Sabes, Attorney

John C. Pfahnl, Jr., CPA

W. Roche Garcia

For Franchise Tax Board:

Renel Sapiandante, Tax Counsel

Natasha Zaharov, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellants complied with Internal Revenue Code section 1033 and purchased a replacement property for their involuntarily converted property within three years after the close of the taxable year in which they realized gain on the converted property

Appellant's Exhibit: Miscellaneous Documents (Exhibit 1.1)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

Weyerhaeuser Company & Subsidiaries, 104355

1984, \$465,618.00 Claim for Refund

1985, \$212,627.00 Claim for Refund

1987, \$1,831,458.00 Claim for Refund

1988, \$2,196,043.00 Claim for Refund

1989, \$1,977,326.00 Claim for Refund

1990, \$1,450,518.00 Claim for Refund

1991, \$410,759.00 Claim for Refund

1992, \$1,416,043.00 Claim for Refund

1993, \$2,290,090.00 Claim for Refund

Weyerhaeuser Company & Subsidiaries, 246164

1994, \$2,031,993.00 Claim for Refund

1995, \$2,064,778.00 Claim for Refund

1996, \$714,174.00 Claim for Refund

1997, \$406,927.00 Claim for Refund

1998, \$4,866.00 Claim for Refund

For Claimant:

Jeffrey M. Vesely, Attorney

Annie H. Huang, Attorney

For Franchise Tax Board:

Carl Joseph, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, January 25, 2005

Issues: Whether appellant's sales factor denominator should include the gross amount received or the net amount received from appellant's treasury department investment activities in Washington.

Whether appellant attributed a reasonable value to land leased from Canadian provincial governments, for purposes of including such land in the denominator of its property factor.

Whether appellant has demonstrated that the standard apportionment formula is distortive, such that relief is warranted under Revenue and Taxation Code section 25137.

Whether equipment that appellant used in wastepaper collection facilities is "qualified property" for purposes of the Manufacturers' Investment Credit (MIC).

Whether concrete foundations at appellant's containerboard manufacturing centers are "qualified property" for MIC purposes.

Whether the Board should publish its decision as a formal opinion.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 1.2)

Respondent's Exhibit: Opinion – Appeal of Crisa Corporation (Exhibit 1.3)

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Richard Courtney (Request to Vacate Decision dated September 8, 2004), 219041

Richard Courtney, 219041

1999, \$1,499.00 Tax \$374.75 Late Filing Penalty, \$451.75 Notice and Demand Penalty

For Appellant: Richard Courtney, Taxpayer

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has met his burden to prove error in the proposed assessment.
Whether appellant has shown that the penalties should be abated for reasonable cause.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board vacated its decision of September 8, 2004.

Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

SALES AND USE TAX APPEALS HEARINGS

J. Beck, Inc., 205030

10-1-99 to 9-30-02, \$8,409,956.00 Claim for Refund

For Claimant: Steven K. Beckett, Attorney

Lawrence D'Souza, Representative

For Sales and Use Tax Department: Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether claimant has established that it is entitled to a refund of self-reported use tax on its purchase price of materials consumed in construction contracts.

Tuesday, January 25, 2005

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

James Harper, 240351

7-1-01 to 9-30-02, \$131,695.70 Tax

For Petitioner:

Vern Bartel, Attorney

James Harper, Taxpayer

For Sales and Use Tax Department:

Anthony Epolite, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner is a responsible person, personally liable for the liability established against the underlying corporation (Shaw).

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 11:55 a.m. and reconvened at 1:30 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARING

Chuck Patterson, Inc., 209737

7-1-99 to 6-30-02, \$108,008.00 Tax

For Petitioner:

Abe Golomb, Representative

For Sales and Use Tax Department:

Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issue: Whether petitioner, an off-reservation dealer, is obligated to collect and report use tax on sales of automobiles when the vehicles are delivered on a reservation to an Indian purchaser who does not reside on a reservation.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JANUARY 25, 2005

Weyerhaeuser Company & Subsidiaries, 104355, 246164

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and duly carried, Mr. Chiang, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish and Ms. Yee voting no, the Board deferred consideration of Issues 1 and 3, pending decision of the California Supreme Court.

Upon motion of Mr. Parrish, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board on Issue 2.

Tuesday, January 25, 2005

Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board on Issue 4.

Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board on Issue 5.

The Board deferred consideration of Issue 6.

W. Rocke and Glenda L. Garcia, 252189

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

APAC Group, 259988

6-30-01, \$1,228.00 Claim for Refund

For Claimant:

Appearance Waived

For Franchise Tax Board:

John Penfield, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant is permitted to carry back a net operating loss Year Ended June 30, 2001.

Whether appellant has provided sufficient evidence to show that it is entitled to a refund due to an understatement of expenses in Year Ended June 30, 2001.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD JANUARY 25, 2005

Richard Courtney (Request to Vacate Decision dated September 8, 2004), 219041

Richard Courtney, 219041

Final Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD JANUARY 25, 2005

J. Beck, Inc., 205030

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Tuesday, January 25, 2005

SALES AND USE TAX APPEALS HEARING

American Mechanical Dredge, Inc., 217925

5-1-99 to 3-31-02, \$164,766.03 Tax, \$16,476.60 Failure to File Penalty

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner was engaged in business in this state and thus required to collect and remit tax with respect to the subject transaction.

Whether the sale was an exempt occasional sale.

Whether petitioner can be relieved of its debt based on its contention that it has no financial resources to pay it.

Whether a pending state court action prevents the imposition of this deficiency.

Action: Ms. Mandel moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Yee. Mr. Parrish made a substitute motion to delete the penalty, otherwise redetermine as recommended by the Appeals Division. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD JANUARY 25, 2005

James Harper, 240351

Final Action: The Board deferred consideration of this matter to the March Sacramento Board meeting.

SALES AND USE TAX APPEALS HEARING

Juvenile Lifestyles, Inc., 199168

10-1-97 to 9-30-00, \$94,136.88 Tax, \$9,413.75 Negligence Penalty

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner has provided sufficient evidence to establish that the audited taxable measure erroneously contains nontaxable charges.

Whether the negligence penalty should be deleted.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Tuesday, January 25, 2005

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD JANUARY 25, 2005

Chuck Patterson, Inc., 209737

Final Action: Ms. Yee moved the petition be redetermined as recommended by the Appeals Division. Mr. Leonard made a substitute motion to allow 2 1/2 of the 4 disallowed exempt sales to Indians. The substitute motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

SALES AND USE TAX APPEALS HEARING

Angela D. Dayan, 187063

7-01-91 to 12-26-98, \$199,044.00 Late Protest

Angela D. Dayan and A.D., Inc., 209386, 269686

7-01-91 to 12-26-98, \$17,000.00 Claim for Refund

For Petitioner: No Appearance

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Issues: Whether taxpayer is liable as a successor.

Whether the estimated purchase price of the business is excessive.

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:¹

Ashok V. Parmar, Purnima A. Parmar, and Mahinder Parmar, 89678, 89816, 89000005150

12-19-93 to 3-8-95, \$69,147.00, \$6,914.70 Failure to File, \$17,286.75 Fraud

Action: Deny the petition for rehearing as recommended by the Appeals Division.

¹ This vote was rescinded later in the day.

Tuesday, January 25, 2005

Harjinder S. Birdi, 215318

4-19-01, \$5,189.19 Tax, \$518.95 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.²

Big Sky Entertainment Corporation, 219184

4-1-99 to 3-31-02, \$31,475.59 Tax

Action: Redetermine as recommended by the Appeals Division.

Vicente Aranda, 220110

1-1-96 to 2-12-97, \$28,306.10 Tax

Action: Redetermine as recommended by the Appeals Division.

Daniel Suor and Vuthony Lim, 287309

8-4-04 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Mark Albert Williams, 288943

8-27-04 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Elizabeth Montes*, 224954; and, *Susan Lynne Sabin*, 260586.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Parrish, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in *Danette Brown*, 266630, the Board made the following orders:

Elizabeth Montes, 224954

Dennis A. Speldrick, 225542

1997, \$ 1,043.94 Assessment

Action: The Board deferred consideration of this matter.

John Barry, 250920

1999, \$4,130.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ami E. and Alice K. Berkowitz, 259984

1998, \$1,967.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

² This action was rescinded later in the day.

Tuesday, January 25, 2005

Danette Brown, 266630

1997, \$3,136.50 Claim for Refund

Action: Sustain the action of the Franchise Tax Board. Mr. Chiang not participating.

Matthew D. Close, 265394

2000, \$3,566.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thomas R. Delong, 219482

1999, \$508.00 Tax, \$127.00 Late Filing Penalty

2000, \$1,134.00 Tax, \$283.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750 frivolous appeal penalty.

Lawrence O. and Donna J. Deti, 260839

1979, \$30,218.22 Claim for Refund

1980, \$27,691.61 Claim for Refund

1981, \$28,660.66 Claim for Refund

1982, \$13,941.13 Claim for Refund

Action: Modify the action of the Franchise Tax Board.

Stephen G. Donelan, 258768

1998, \$6,049.67 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Paul F. Dossin, 259949

2000, \$4,157.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

George C. and Lois J. Dostal, 260834

2001, \$4,033.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Brandon J. Gaffney, 253994

2001, \$2,099.00 Tax, \$524.75 Late Filing Penalty, \$755.25 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$500.00 frivolous appeal penalty.

Amir and Zainab Kanji, 262253

2001, \$1,000.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tarlochan Singh Lasher, 260933

1998, \$94,299.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Tuesday, January 25, 2005

James G. Malick, 237213

1996, \$3,275.86 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

P.I.S. Inc., 255799

1997, \$15,912.79 Tax, \$3,268.69 Late Payment

Action: Sustain the action of the Franchise Tax Board.

Retrotech, LLC, 254442

1997, \$701.48 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Adolfo Reyes, 262547

2000, \$658.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Maarifa and Alyssa Roho, 265790

2000, \$2,129.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Susan Lynne Sabin, 260586

1992, \$3,102.90 Claim for Refund

1993, \$878.75 Claim for Refund

1994, \$3,123.99 Claim for Refund

1995, \$10,303.13 Claim for Refund

1996, \$8,284.90 Claim for Refund

1997, \$175.00 Claim for Refund

1998, \$6,872.75 Claim for Refund

Action: The Board deferred consideration of this matter.

Forrest Sackey, 259428

2000, \$773.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Howell and Sandra B. Thomas, 268638

2000, \$4,551.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Colin G. Campbell, 224478

1998, \$5,122.00 Tax, \$1,280.50 Penalty

Action: Deny the petition for rehearing.

Wayne A. Cronos, 219478

1999, \$1,491.00 Tax, \$372.75 Penalty

Action: Deny the petition for rehearing.

Tuesday, January 25, 2005

George Green, 243529

1996, \$16,349.00 Tax, \$4,087.25 Late Filing Penalty, \$4,087.25 Demand Penalty

Action: Deny the petition for rehearing.

Hernan Jacobo, 243392

2000, \$1,444.00 Tax, \$830.00 Penalty

Action: Deny the petition for rehearing.

Mark R. Raus, 220515

2000, \$7,953.00 Tax, \$1,988.25 Late Filing Penalty

2000, \$518.11 Claim for Refund

Action: Deny the petition for rehearing.

Douglas C. Roberts, 221165

2000, \$1,762.00 Tax, \$915.00 Penalty

Action: Deny the petition for rehearing.

Brian M. Sakae, 215268

1998, \$219.00 Assessment

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Joseph B. Felton, 260831

2003, \$347.00 Claim

Action: Sustain the action of the Franchise Tax Board.

Mary Ann Greenly, 257684

2003, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

Patrick Henry, 261157

2003, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

Baolian Li, 255089

2003, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

Tuesday, January 25, 2005

Kieu A. Luong, 264536

2003, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

Jennifer Peach, 260986

2003, \$347.50 Claim

Action: Modify the action of the Franchise Tax Board.

Amanda Perez, 268771

2003, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

Pamela Rene Saucer, 263143

2003, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

William C. Young, 264530

2003, \$340.00 Claim

Action: Sustain the action of the Franchise Tax Board.

Alberto Zaragoza, 263156

2002, \$1.00 or more Claim

Action: Sustain the action of the Franchise Tax Board.

Betty I. Higgins, 251392

2003, \$1.00 or more Claim

Action: Deny the petition for rehearing.

Theresa M. Slater, 243390

2000, \$326.40 Claim

Action: Deny the petition for rehearing.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES
AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

The Board deferred consideration of the following matter: *Centellax, Inc.*,
250575.

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

U.S. Borax, Inc., 244125

10-1-98 to 9-30-01, \$792,826.04

Action: Approve the redetermination as recommended by staff.

Tuesday, January 25, 2005

U.S. Borax, Inc., 244121

4-1-98 to 9-30-01, \$1,133,193.20

Action: Approve the redetermination as recommended by staff.

County of San Diego, 196703

7-1-99 to 6-30-02, \$110,152.40

Action: Approve the redetermination as recommended by staff.

Great Circle Family Foods LLC, 244406

7-1-99 to 6-30-02, \$279,390.44

Action: Approve the redetermination as recommended by staff.

Exxon Mobil Corporation, 238357

4-1-97 to 6-30-00, \$1,335,458.29

Action: Approve the redetermination as recommended by staff.

Corporate Express Office Products, Inc., 171210

1-1-99 to 6-30-00, \$727,212.53

Action: Approve the redetermination as recommended by staff.

Cornerstone Propane, L.P., 244756

4-1-99 to 3-31-92, \$122,277.57

Action: Approve the redetermination as recommended by staff.

Thompson PBE, Inc., 209821

10-1-97 to 9-30-00, \$377,792.03

Action: Approve the redetermination as recommended by staff.

Plastofilm Industries, Inc., 252970

1-1-97 to 6-30-01, \$77,287.29

Action: Approve the redetermination as recommended by staff.

McGraw-Hill, Inc., 186691

10-1-96 to 12-31-99, \$1,546,149.89

Action: Approve the redetermination as recommended by staff.

Wallace Computer Services, Inc., 254680

1-1-99 to 9-30-02, \$78,454.23

Action: Approve the redetermination as recommended by staff.

Patterson Fan Company, Inc., 260813

1-1-96 to 6-30-02, \$64,349.97

Action: Approve the redetermination as recommended by staff.

Tuesday, January 25, 2005

Wickes Furniture Company, Inc., 282337

1-1-04 to 1-31-04, \$64,080.50

Action: Approve the relief of penalty as recommended by staff.

Newport Fab LLC, 289955

1-1-03 to 12-31-03, \$53,961.20

Action: Approve the relief of penalty as recommended by staff.

Philips Medical Capital LLC, 286515

10-1-03 to 12-31-03, \$52,631.50

Action: Approve the relief of penalty as recommended by staff.

Ontario T, Inc., 288786

1-29-04 to 4-30-04, \$153,360.92

Action: Approve the relief of penalty as recommended by staff.

HBS Equipment Corporation, 282915

10-1-98 to 12-31-01, \$134,716.77

Action: Approve the denial of claim for refund as recommended by staff.

Suncare Respiratory Services, Inc., 289574

10-1-98 to 3-31-00, \$106,325.40

Action: Approve the denial of claim for refund as recommended by staff.

Reid Plastics West, Inc., 110528

1-1-99 to 12-31-00, \$134,803.58

Action: Approve the denial of claim for refund as recommended by staff.

Centellax, Inc., 250575

12-1-01 to 6-30-02, \$56,408.42

Action: The Board deferred consideration of this matter.

The Standard Register Company, 290022

1-1-99 to 9-30-03, \$111,675.23

Action: Approve the denial of claim for refund as recommended by staff.

Lori Hannigan Grigg, 89002149110

1-1-86 to 9-30-93, \$79,388.00

Action: Approve the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes,

Tuesday, January 25, 2005

Mr. Chiang not participating in *AT&T Corporation*, 282345, Ms. Mandel not participating in accordance with Government Code section 87105 in *Wells Fargo Foothill, Inc.*, 173596; *Rehrig Pacific Company*, 268183; *AT&T Corporation*, 282345; and, *Capital One Auto Finance, Inc.*, 244187, the Board made the following orders:

301 North Canon LLC, 284691

7-1-03 to 12-31-03, \$60,213.86

Action: Approve the credit and cancellation as recommended by staff.

Kawasaki Motors Corporation USA, 224851

4-1-00 to 9-30-03, \$570,655.23

Action: Approve the refund as recommended by staff.

International Paper Company, 287539

1-1-01 to 12-31-03, \$87,186.50

Action: Approve the refund as recommended by staff.

Fotokem Industries, Inc., 234739

1-1-01 to 12-31-03, \$778,901.83

Action: Approve the refund as recommended by staff.

Wells Fargo Foothill, Inc., 173596

1-1-99 to 3-31-02, \$73,125.03

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Creative Litho, 250573

10-1-00 to 9-30-03, \$56,757.00

Action: Approve the refund as recommended by staff.

County of Alameda, 284016

4-1-04 to 6-30-04, \$67,169.20

Action: Approve the refund as recommended by staff.

Pacific Racing Association, 289031

7-1-01 to 9-30-01, \$103,014.99

Action: Approve the refund as recommended by staff.

Hydraulic Controls, Inc., 245781

10-1-01 to 12-31-03, \$93,865.74

Action: Approve the refund as recommended by staff.

ESRI, Inc., 284017

7-1-03 to 9-30-03, \$83,079.70

Action: Approve the refund as recommended by staff.

Tuesday, January 25, 2005

Joe T. Morales, 287584

4-1-01 to 12-31-02, \$71,398.41

Action: Approve the refund as recommended by staff.

Alternative Materials Technology, 264512

4-1-01 to 12-31-03, \$125,590.60

Action: Approve the refund as recommended by staff.

Scripps Health, 265905

1-1-02 to 12-31-02, \$50,640.81

Action: Approve the refund as recommended by staff.

San Jose Surgical Supply, Inc., 219115

1-1-00 to 3-31-02, \$136,153.36

Action: Approve the refund as recommended by staff.

Wyse Technology, 235509

10-1-02 to 12-31-02, \$75,157.29

Action: Approve the refund as recommended by staff.

Fujitsu Network Communications, Inc., 261872

1-1-04 to 3-31-04, \$74,936.82

Action: Approve the refund as recommended by staff.

Chronimed, Inc., 187536

7-1-99 to 6-30-02, \$50,431.97

Action: Approve the refund as recommended by staff.

Random House, Inc., 253334

7-1-03 to 12-31-03, \$112,854.85

Action: Approve the refund as recommended by staff.

Exxon Mobil Corporation, 209389

7-1-01 to 9-30-02, \$511,448.73

Action: Approve the refund as recommended by staff.

Printrak International, Inc., 206936

10-1-01 to 12-31-01, \$215,903.05

Action: Approve the refund as recommended by staff.

Harris Corporation, 241232

1-1-98 to 6-30-00, \$146,330.44

Action: Approve the refund as recommended by staff.

Tuesday, January 25, 2005

I. C. Security Printers, Inc., Mfg., 286894

7-1-01 to 6-30-03, \$51,433.84

Action: Approve the refund as recommended by staff.

NEC Solutions (America), Inc., 239690

7-1-00 to 3-31-03, \$262,798.38

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA LLC, 269958

1-23-01 to 10-1-03, \$263,283.00

Action: Approve the refund as recommended by staff.

Rehrig Pacific Company, 268183

4-1-01 to 3-31-04, \$60,361.97

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Teklogix Corporation, 196914

10-1-99 to 9-30-02, \$70,810.65

Action: Approve the refund as recommended by staff.

Banana Republic (California) LLC, 284405

2-1-98 to 12-31-02, \$678,125.84

Action: Approve the refund as recommended by staff.

Perceive, LLC, 224766

4-1-00 to 3-31-02, \$76,020.58

Action: Approve the refund as recommended by staff.

Suncare Respiratory Services, Inc., 88323

10-1-98 to 2-28-02, \$61,857.10

Action: Approve the refund as recommended by staff.

Spectrum Grafix, Inc., 243915

10-1-00 to 6-30-02, \$458,417.75

Action: Approve the refund as recommended by staff.

Westinghouse Electric Company, LLC, 249234

10-01-02 to 12-31-02, \$83,344.52

Action: Approve the refund as recommended by staff.

Xel Communications, Inc., 254691

7-1-01 to 6-30-04, \$79,612.70

Action: Approve the refund as recommended by staff.

Tuesday, January 25, 2005

Lightconnect, Inc., 233910

5-18-00 to 12-31-03, \$100,167.67

Action: Approve the refund as recommended by staff.

Xcel Pharmaceuticals, Inc., 286437

4-1-01 to 3-31-04, \$61,531.16

Action: Approve the refund as recommended by staff.

AT&T Corporation, 282345

1-1-02 to 3-31-02, \$71,256.61

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.
Ms. Mandel not participating in accordance with Government Code section 87105

GTE California, Inc., 51429

4-1-96 to 9-30-98, \$1,885,498.33

Action: Approve the refund as recommended by staff.

The Standard Register Company, 285737

1-1-99 to 12-31-01, \$50,947.09

Action: Approve the refund as recommended by staff.

American Cyanamid Company, 284800

1-1-98 to 12-31-03, \$199,145.14

Action: Approve the refund as recommended by staff.

Teradyne, Inc., 284612

1-1-99 to 12-31-01, \$84,937.56

Action: Approve the refund as recommended by staff.

Irvine Photo Graphics, Inc., 131493

1-1-98 to 3-31-03, \$552,355.69

Action: Approve the refund as recommended by staff.

JRH Biosciences, Inc., 253553

7-1-00 to 12-31-03, \$295,522.76

Action: Approve the refund as recommended by staff.

Axolotl Health Systems, Inc., 284162

10-1-00 to 9-30-02, \$189,649.03

Action: Approve the refund as recommended by staff.

Onyx Software Corporation, 286434

10-01-00 to 3-31-01, \$140,591.19

Action: Approve the refund as recommended by staff.

Tuesday, January 25, 2005

Capital One Auto Finance, Inc., 244187

1-1-02 to 12-31-02, \$448,659.42

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Morales Olive and Palm Trees LP, 287583

1-1-03 to 6-30-04, \$54,895.43

Action: Approve the refund as recommended by staff.

Heritage Community Credit Union, 272101

1-1-04 to 3-31-04, \$52,751.44

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT

With respect to the Special Taxes Matters, Redeterminations and Relief of Penalties, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Axa Re America Insurance Company, 220208*; and, *Virginia Surety Company, Inc., 240631*, the Board made the following orders:

Texaco Refining and Marketing, Inc., 163292

1-1-01 to 12-31-01, \$622,160.13

Action: Approve the redetermination as recommended by staff.

Axa Re America Insurance Company, 220208

1-1-02 to 12-31-02, \$55,079.30

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9

Virginia Surety Company, Inc., 240631

1-1-03 to 3-31-03, \$56,135.40

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9

SPECIAL TAXES MATTERS, REFUNDS, CONSENT

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Tuesday, January 25, 2005

BP West Coast Products LLC, 192498

1-1-02 to 1-31-02, \$190,725.67

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Ultramar, Inc., 233952

7-1-02 to 7-31-02, \$1,179,960.69

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Equitable Life Assurance Society of U.S., 284781

1-1-00 to 12-31-02, \$284,105.35

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

PUBLIC COMMENTS

Richard Carlson, Taxpayer Representative, Ryan & Company, spoke on *D & G Marine, Inc.*, 82414, 90009, 207531.

Lenny Goldberg, Executive Director, California Tax Reform Association, and Jerry Flanagan, The Foundation for Taxpayer and Consumer Rights, spoke on the manufacturers' investment credit.

LEGAL APPEALS MATTERS, ADJUDICATORY

Pacific PAC, Inc., 192571

1-1-99 to 9-2-99, \$73,349.19 Tax

Considered by the Board: September 8, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Ms. Yee and duly carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel voting no, the Board ordered that the petition for rehearing be denied.

Damirus Corporation, 172808

10-1-94 to 9-30-97, \$21,042.90 Claim for Refund

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Joyeria Internacional, Inc., 139250

10-1-97 to 9-30-00, \$44,004.21 Tax, \$4,490.75 Negligence Penalty

Considered by the Board: September 8, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, January 25, 2005

Action: Mr. Parrish moved to reduce the protested taxable measure by \$196,000.00. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

D & G Marine, Inc., 82414, 90009, 207531

12-30-96, \$288,512.81 Claim for Refund

8-11-99, \$569,198.00 Claim for Refund

6-1-96, \$43,642.50 Claim for Refund

Doug Bombard Enterprises, Inc., 240445

4-12-01, \$629,600.00 Claim for Refund

Considered by the Board: September 21, 2004

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Mr. Parrish moved to the grant the claims for refund. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Mr. Chiang stated that he would not participate in the matter of *LSI Logic Corporation, 191373*, in accordance with Government Code section 87105, and left the Boardroom.

LSI Logic Corporation, 191373

1-1-97 to 12-31-97, \$1,644,625.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, Mr. Chiang absent and not participating in accordance with Government Code section 87105, the Board ordered that the claim for refund be granted.

Mr. Chiang returned to the Boardroom.

Cypress Semiconductor Corporation, 217681

1-1-01 to 12-31-02, \$2,252,896.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Tuesday, January 25, 2005

Sun Microsystems, Inc., 206151

7-1-99 to 6-30-00, \$4,161,598.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Symbol Technologies, Inc., 193082

1-1-97 to 12-31-99, \$414,032.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Exar Corporation, 205915, 222138

4-1-97 to 3-31-03, \$1,108,393.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

LAM Research Corporation, 223039

7-1-95 to 6-24-01, \$8,711,905.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

KLA-Tencor Corporation, 223040

7-1-01 to 6-30-02, \$859,265.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Rockwell Automation, Inc., 223054

10-1-96 to 12-31-98, \$7,724,318.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, January 25, 2005

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

National Semiconductor Corporation, 223056

5-27-96 to 5-28-00, \$7,646,330.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Advanced Cardiovascular Systems, Inc., 223057

1-1-99 to 12-31-01, \$3,536,938.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Adaptec, Inc., 223059

4-1-00 to 3-31-02, \$690,859.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Powerwave Technologies, Inc., 234319

12-29-97 to 12-31-00, \$584,865.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

ESS Technology, Inc., 222193

1-1-98 to 12-31-00, \$698,009.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Tuesday, January 25, 2005

Beckman Coulter, Inc., 221051

1-1-96 to 12-31-01, \$3,022,591.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Hewlett-Packard Company, 158429

11-01-98 to 10-31-00, \$9,463,133.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Hewlett-Packard Company, 186038

11-1-00 to 10-31-00, \$3,621,214.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Integrated Device Technology, Inc., 223058

3-30-98 to 3-31-02, \$5,912,266.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

Ms. Mandel stated that she would not participate in the matter of *Intel Corporation, 222188*, in accordance with Government Code section 87105, and left the Boardroom.

Intel Corporation, 222188

12-31-00 to 12-29-01, \$19,606,211.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, January 25, 2005

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee abstaining, Ms. Mandel absent and not participating in accordance with Government Code section 87105, the Board ordered that the claim for refund be granted.

Ms. Mandel returned to the Boardroom.

Level One Communications, Inc., 222189

12-31-00 to 12-29-01, \$1,486,295.00 Claim for Refund

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the claim for refund be granted.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,
ADJUDICATORY**

Southern Wine & Spirits of America, 249301

2001, \$15,537.94 Assessment

Considered by the Board: Formal Opinion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Mr. Parrish moved to abate interest that accrued from March 15, 2002 through May 15, 2002 and adopt the formal opinion. The motion was seconded by Mr. Leonard.

Ms. Yee made a substitute motion to abate interest that accrued from March 15, 2002 through May 15, 2002, and direct staff to send a letter to the California Victim Compensation and Government Claims Board recommending favorable consideration of the request for relief filed by the taxpayer. The substitute motion was seconded by Mr. Chiang but no vote was taken.

Upon motion of Mr. Leonard, seconded by Mr. Parrish and duly carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel voting no, the Board ordered the abatement of interest that accrued from March 15, 2002 through May 15, 2002, without a formal opinion.

Armando H. Arizmendiz, 246541

2001, \$407.00 Tax, \$145.50 Failure to Furnish Information Penalty

Considered by the Board: September 8, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

James Kenney, 261084

2001, \$499.00 Tax, \$124.75 Notice and Demand Penalty, \$124.75 Late Filing Penalty

Presented for Separate Discussion

Tuesday, January 25, 2005

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

Robert J. Murphy, 255127

2000, \$4,228.00 Assessment

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board.

Seymour I. Neuman, 252228

1998, \$11,891.00 Assessment

Considered by the Board: September 21, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, ADJUDICATORY

Pierre R. Marsh, 253623

2003, \$350.00 Claim

Considered by the Board: November 4, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Stephen Sanders, 255543

2003, \$1.00 or more Claim

Considered by the Board: November 4, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board.

Tuesday, January 25, 2005

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES AND DENIALS OF CLAIMS FOR REFUND, ADJUDICATORY

The Cessna Aircraft Company, 145715

4-1-97 to 12-31-99, \$1,962,856.64

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

Cessna Finance Corporation, 187302

10-1-97 to 9-30-00, \$957,153.38

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

Lion Motors, Inc., 283471

1-1-04 to 3-31-04, \$54,261.12

Considered by the Board: December 15, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the relief of penalty as recommended by staff.

SNK America, Inc., 281279

7-1-02 to 9-30-02, \$57,282.82

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY

Arnold J. Goldman, 259625

7-1-89 to 6-30-90, \$11,947,450.12

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

Tuesday, January 25, 2005

Arnold J. Goldman, 259638

12-1-88 to 6-30-89, \$88,819.94

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

SNK America, Inc., 224773

7-1-02 to 9-30-02, \$76,648.36

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Morgan Stanley & Company, Inc., 111375

1-1-95 to 12-31-01, \$313,479.16

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Valley Credit Union, 282865

10-1-03 to 12-31-03, \$76,087.36

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

CIT Financial USA, Inc., 206926

1-1-01 to 9-30-02, \$173,004.59

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Corporate Carrots, Inc., 263739

10-1-03 to 12-31-03, \$53,264.01

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, January 25, 2005

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

Unitary Escaped Assessment

Korea Telecom America, Inc., (7781)

2004, \$1,150,000.00 Value, \$115,000.00 Late Filing Penalty

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Unitary and Nonunitary Land/Improvements Escaped Assessments

Pacific Gas & Electric Company (135)

2003, \$18,765,345.00

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Sierra Pacific Power Company (146)

2003, \$150,000.00 Value

2004, \$150,000.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

The Pacific Bell Telephone Company (279)

2001, \$942,050.00 Value

2002, \$942,050.00 Value

2003, \$942,050.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Tuesday, January 25, 2005

Union Pacific Railroad Company (843)

2003, \$98,334.00 Value

2004, \$117,920.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the nonunitary escaped assessment as recommended by staff.

Sprint Communications Company, L.P., (2014)

2002, \$27,500.00 Value

2003, \$27,500.00 Value

2004, \$27,500.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Electric Lightwave, Inc., (2430)

2001, \$26,192.00 Value

2002, \$27,792.00 Value

2003, \$31,071.00 Value

2004, \$29,491.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Los Angeles SMSA Limited Partnership (2532)

2004, \$107,630.00 Value

2004, \$123,733.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Sprint Spectrum L.P. (2722)

2003, \$94,678.00 Value

2004, \$115,413.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Tuesday, January 25, 2005

Metro PCS California/Florida, Inc., (2733)

2002, \$120,535.00 Value

2003, \$137,429.00 Value

2004, \$161,369.00 Value

2003, \$126,824.00 Value

2004, \$157,545.00 Value

2003, \$113,862.00 Value

2004, \$135,430.00 Value

2003, \$118,654.00 Value

2004, \$148,293.00 Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Harjinder S. Birdi, 215318.*

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board rescinded the previous vote on Legal Appeals Matters Consent Agenda, and made the following orders:

Ashok V. Parmar, Purnima A. Parmar, and Mahinder Parmar, 89678, 89816, 89000005150

12-19-93 to 3-8-95, \$69,147.00, \$6,914.70 Failure to File, \$17,286.75 Fraud

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Harjinder S. Birdi, 215318

4-19-01, \$5,189.19 Tax, \$518.95 Failure to File Penalty

Action: The Board deferred consideration of this matter.

Big Sky Entertainment Corporation, 219184

4-1-99 to 3-31-02, \$31,475.59 Tax

Action: Redetermine as recommended by the Appeals Division.

Vicente Aranda, 220110

1-1-96 to 2-12-97, \$28,306.10 Tax

Action: Redetermine as recommended by the Appeals Division.

Daniel Suor and Vuthony Lim, 287309

8-4-04 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Tuesday, January 25, 2005

Mark Albert Williams, 288943

8-27-04 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

CHIEF COUNSEL MATTERS

RULEMAKING—SALES AND USE TAX

Request for authorization to amend Sales and Use Tax Regulation 1698, Records, Section 100 Change

Sharon Jarvis, Senior Tax Counsel, Business Division, Legal Department, made introductory remarks regarding the request for authorization to amend Sales and Use Tax Regulation 1698, *Records* (Exhibit 1.4).

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board authorized the publication of Sales and Use Tax Regulation 1698, *Records*.

Request for authorization to amend Sales and Use Tax Regulation 1703, Interest and Penalties, Section 100 Change

Sharon Jarvis, Senior Tax Counsel, Business Taxes Division, Legal Department, made introductory remarks regarding the request for authorization to amend Sales and Use Tax Regulation 1703, *Interest and Penalties* (Exhibit 1.5).

Action: Upon motion of Ms. Yee, seconded by Ms. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Section 100 changes to Sales and Use Tax Regulation 1703, *Interest and Penalties*, as recommended by staff.

RULEMAKING—PROPERTY TAX

Rules of Practice, Regulation 5082.2, Property Tax Petitions: Finality of Decision; Petition for Rehearing

Lou Ambrose, Senior Tax Counsel, Property Taxes Division, Legal Department, was available to answer questions regarding the adoption of the revised language to the Rules of Practice, Regulation 5082.2, *Property Tax Petitions: Finality of Decision; Petition for Rehearing* (Exhibit 1.6).

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the revised language to Rules of Practice, Regulation 5082.2, *Property Tax Petitions: Finality of Decision; Petition for Rehearing*.

Tuesday, January 25, 2005

RULEMAKING—ADMINISTRATIVE**Conflict of Interest Code, Regulation 6001, General Provision**

Jean Ogrod, Assistant Chief Counsel, Settlement and Administration Division, Legal Department, was available to answer questions regarding the adoption of the revised language to the Conflict of Interest Code, Regulation 6001, *General Provisions* (Exhibit 1.7).

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the revised language to Conflict of Interest Code, Regulation 6001, *General Provisions*.

PROPERTY TAX MATTER**Consideration of Findings and Decisions**

360 Networks (USA), Inc., (7779), 270478

2004, \$11,800,000.00 Unitary Value

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the finding and decision as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 1.8).

Kenneth D. Fox, Supervising Tax Auditor III, San Diego District Office

Jack A. Infranca, Supervising Tax Auditor III, Van Nuys District Office

Vicky S. Kjer, Chief Accounting Officer, Accounting Section, Financial Management Division, Headquarters

Chuck O. Obasi, Associate Tax Auditor, Culver City District Office

William R. (Bill) Pitts, Supervising Tax Auditor I, Riverside District Office

L. Colleen Regalado, Associate Tax Auditor, Van Nuys District Office

Marilyn Springer, Supervising Tax Technician II, Headquarters

Tuesday, January 25, 2005

Action: Adopt a resolution honoring Gary L. Orso, who retired as the Riverside County Assessor/Recorder/Clerk on December 30, 2004, extending its best wishes on his retirement and its appreciation for his service to the County of Riverside and the State of California (Exhibit 1.9).

BOARD COMMITTEE REPORTS

Legislative Committee

Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Legislative Committee report (Exhibit 1.10).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, reported on the 2005-06 Board budget. The Governor's budget proposes total Board expenditures of \$365 million, allowing the Board to continue to efficiently work to bring in the State's revenue.

Offers-in-Compromise Recommendations

Jean Ograd, Assistant Chief Counsel, Settlement and Administration Division, Legal Department, made introductory remarks regarding the Offers in Compromise recommendations.

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Lubrication Systems, Inc.*, *David and Susan Bagley*, *Edward W. Shinner*, *Luis Sanchez*, *Lawrence Canter*, and, *Scott Agajanian*, as recommended by staff.

PUBLIC COMMENT

Deborah Pellegrini, Chief, Board Proceedings Division, entered into the record public comments from the following (Exhibit 1.11):

Thomas J. Pastuszka, Executive Officer/Clerk, County of San Diego
Donna Stottlemeyer, Clerk of the Board of Supervisors,
Gail T. Borkowski, Chief Deputy Clerk, Santa Cruz Board of Supervisors
J. Renee Bastian, Clerk of the Board, San Bernardino County

Mr. Leonard requested staff to prepare a report on assessment appeals board member training for the next Executive Director's Report.

Tuesday, January 25, 2005

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:55 p.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss settlements (R&T Code § 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 3:10 p.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Mr. Chiang adjourned the meeting in memory of United States Representative Robert T. Matsui, Shirley Chisholm, 1st African American woman elected to Congress, and Gloria Griego at 3:12 p.m.

The foregoing minutes are adopted by the Board on March 22, 2005.

Note: The following cases were removed from the calendar prior to the meeting: *Alan F. and Rita K. Shugart, 221743*; and, *Fassel Mahmoud Elder, 197550*.